

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated April 1, 2009. A Petition for Extension of Time (one month) and the fee therefor are submitted herewith. July 10, 2009

Claims 23-40 are pending in the application.

Preliminarily, applicant addresses the objection to the drawings on the grounds that they do not show the “means for detecting...” and the “means for performing hand-over process” in claims 23, 28 and 33. The Office Action also states: “Similarly, ‘the handoff process’ as recited in claims 38, 39, 40 must be shown...or the feature(s) canceled from the claim(s)”.

However, as noted at the top of page 9 of the Office Action: “...in order to remove the object (sic) to the drawing (sic), it is suggested that the claims (23, 28, 33) be amended so that the claim limitation will no longer be a means (or step) plus function limitation...”.

Indeed, the applicant has proceeded in the manner suggested above by the Examiner and the subject claims no longer are in a “means plus function” format, obviating the objection to the drawings.

Despite the foregoing, please note that the “hand-over process” is amply and aptly described in the specification, including by being illustrated in Fig. 2A and also being shown in various ones of the drawings, including in Fig. 4. For example, in the brief description of the drawings, mention is made at Fig. 3 of illustrating the hand-over method and the embodiment 1. See also, the brief description of Fig. 4. Besides, the term “hand-over process” is self-explanatory within the context of the extensive specification herein. It is simply a matter of using one or another of several antennas as the means for conveying a signal from a base station. In other words, the coupling of the signal is “handed-over” from one antenna to another”, See also the instant specification paragraphs [0034], [0036] and [0038] and many other sections of the instant specification.

Turning to the objection to claims 23-37 under the second paragraph of 35 U.S.C. §112, it is noted that the claims were indeed amended as suggested by the Examiner, whereby a means plus function format is no longer used and the applicant has now consistently referred in the claims to the term “condition”, rather than “state”, as requested by the Examiner at the bottom of

page 3 of the Office Action. The applicant has similarly entered the requested amendment to claim 38. Withdrawal of the objections to the claims is accordingly requested and warranted.

Turning to the rejection of claims 23-37 on the basis of the first paragraph of 35 U.S.C. §112, the applicant respectfully traverses the same on the basis of the present claim amendments and further, on the basis that the specification more than adequately defines and describes the scope of this limitation. For example, the term “state” of the antenna signals or, in other words, the condition of the antenna signals in a most obvious form thereof, refers to the signal strength or intensity thereof, as clearly described in the specification, which speaks about the issue of zones where no signal at all is sensed, or where the signals for two or more antennas are compared and the comparison is clearly described in terms of the signal strength. A comparison inherently entails comparing two quantities and noting the difference therebetween, including which is more intense or less intense in signal magnitude.

The litmus test for maintaining an objection under the first paragraph of 35 U.S.C. §112 is whether the specification describes the invention in such a way “as to enable one skilled in the art to which it pertains, or to which it is most likely connected, to make and/or use the invention without undue experimentation.” Here, the implementation of a circuit that can compare the signal intensities borders on the trivial. It is simply a matter of comparing signal magnitudes. The specification and the drawings speak repeatedly of the basic approach which is to sense signal intensities coming through the various antennas and comparing and noting the differences therebetween. On the basis of the foregoing remarks, the applicant traverses and respectfully requests reconsideration and withdrawal of the rejection of any claim herein under the first paragraph of 35 U.S.C. §112.

Substantively, claims 23-40 are stated to be obvious over Furukawa (6,108,548), in view of Cvetkovic (6,236,844). Reconsideration is requested in view of the further amendments to the claims herein and the following remarks.

The primary Furukawa reference does not teach and is, in fact, silent (as acknowledged at the top of page of the Office Action) about having and utilizing two antennas that are deliberately spaced apart and which are utilized in a manner whereby differences in the signals between the

two antennas are noted for the purposes of determining a precise point of switching from one base station to another, particularly in a moving vehicle.

Rather, the two antennas in the Furukawa reference are simply used to save time in the hand-over process by engaging a downstream base station with one of the two antennas which is not utilized for active communication and thereby preparing the two systems for the point where a faster switchover will occur. But no signal intensity or signal quality are being tested with the two antennas to determine the spacial point where such switchover should take place.

It is not enough to find a secondary reference, such as Cvetkovic, that shows two antennas spaced apart. This is because of the fact that even if one would simply space apart the antennas in the Furukawa reference, they still would not be configured and used structurally and functionally as in the present claims. The hypothetically spaced apart antennas in Furkawa would still be used such that only one of the antennas is used for active communication. The other antenna would be used for an entirely different purpose and function, namely to set up and prepare for the eventual switchover.

The secondary Cvetkovic reference does not teach determining the point of a switchover. Its disclosure is limited to the solving of the specific problem which ensues from poor reception of signals which sometimes result from the phenomena such as “short time delay multi-path” and “long time delay multi-path”, which can result in signals that are difficult to read.

The secondary reference teaches that by using two spaced apart antennas, the quality of the signal can be improved by, in effect, subtracting from them the undesired reflective signals or the signal artifacts. But, again, using two spaced apart antennas in order to solve the multi-path problem does not amount to a teaching of a system or methodology which enables the finding of the precise spacial location of switching over from one base station to another base station through the use of spaced apart antennas which provide far more accurate measures of the relative position of the mobile device relative to the base stations. None of the cited references deals with the problem identified and addressed by the invention defined in the instant claims. They disclose neither the structure, nor the methodology for achieving the ends of the present invention.

Therefore, the independent claims in the application clearly define over the prior art and their dependent claims include additional limitations which places them even further away from the prior art. As such, all of the claims in the application are clearly patentable over the art of record.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE UNITED STATES
PATENT AND TRADEMARK OFFICE
EFS FILING SYSTEM
ON JULY 10, 2009

Respectfully submitted,



MAX MOSKOWITZ

Registration No.: 30,576

OSTROLENK FABER LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Telephone: (212) 382-0700